

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

Various statutes and regulations require Federal agencies to obtain certain representations, certifications, and other statements from Offerors in connection with the award of contracts. Offerors are required to complete the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. In addition, all Offerors submitting a proposal in response to this solicitation must complete the representations, certifications, and other statements requested below.

TABLE OF CONTENTS

K.1	FAR 52.204-8, ANNUAL REPRESENTATIONS AND CERTIFICATIONS (SEP 2010).....	1
K.2	FAR 52.209-2, PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS – REPRESENTATION (JUL 2009)	4
K.3	FAR 52.225-25, PROHIBITION ON ENGAGING IN SANCTIONED ACTIVITIES RELATING TO IRAN—CERTIFICATION (SEP 2010)	4
K.4	FAR 52.230-1, COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (OCT 2008).....	5
K.5	FAR 52.230-7, PROPOSAL DISCLOSURE-COST ACCOUNTING PRACTICE CHANGES (APR 2005)	7
K.6	DEAR 952.209-8 ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE – ADVISORY AND ASSISTANCE SERVICES (JUN 1997)	8
K.7	COST AND FEE PROPOSAL CERTIFICATION	9
K.8	SOLICITATION CERTIFICATION.....	9
K.9	INSTRUCTIONS FOR SUBMITTING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE (FOCI) INFORMATION	10
K.10	AGREEMENT TO USE NON-FEDERAL EVALUATORS.....	10
K.11	SIGNATURE/CERTIFICATION.....	10
K.12	LIST OF SECTION K ATTACHMENTS	11

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 FAR 52.204-8, ANNUAL REPRESENTATIONS AND CERTIFICATIONS (SEP 2010)

- (a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 562910.
- (2) The small business size standard is 500 employees.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.
- (2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:
 - ☐ (i) Paragraph (d) applies.
 - ☐ (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.
- (c)(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:
 - (i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—
 - (A) The acquisition is to be made under the simplified acquisition procedures in Part 13;
 - (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
 - (C) The solicitation is for utility services for which rates are set by law or regulation.
 - (ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$100,000.
 - (iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.
 - (iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—
 - (A) Are not set aside for small business concerns;
 - (B) Exceed the simplified acquisition threshold; and
 - (C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vi) 52.214-14, Place of Performance—Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(vii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(viii) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(ix) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(x) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xi) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA–designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xiv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA–designated items.

(xv) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvi) 52.225-4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternate I, and Alternate II) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$67,826, the provision with its Alternate II applies.

(xvii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xviii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.

(xix) 52.225-25, Prohibition on Engaging in Sanctioned Activities Relating to Iran-Certification. This provision applies to all solicitations.

(xx) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to—

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

___ (i) 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.

___ (ii) 52.219-21, Small Business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program.

☒ (iii) 52.219-22, Small Disadvantaged Business Status.

☒ (A) Basic.

___ (B) Alternate I.

___ (iv) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

___ (v) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

___ (vi) 52.222-52, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Certification.

___ (vii) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA—Designated Products (Alternate I only).

☒ (viii) 52.223-13, Certification of Toxic Chemical Release Reporting.

___ (ix) 52.227-6, Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

___ (x) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR CLAUSE #	TITLE	DATE	CHANGE
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

K.2 FAR 52.209-2, PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS – REPRESENTATION (JUL 2009)

(a) *Definition.* “Inverted domestic corporation” means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

(b) *Relation to Internal Revenue Code.* A foreign entity that is treated as an inverted domestic corporation for purposes of the Internal Revenue Code at 26 U.S.C. 7874 (or would be except that the inversion transactions were completed on or before March 4, 2003), is also an inverted domestic corporation for purposes of 6 U.S.C. 395 and for this solicitation provision (see FAR 9.108).

(c) *Representation.* By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

K.3 FAR 52.225-25, PROHIBITION ON ENGAGING IN SANCTIONED ACTIVITIES RELATING TO IRAN—CERTIFICATION (SEP 2010)

(a) *Definition.*

“Person”—

(1) Means—

(i) A natural person;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

(b) *Certification.* Except as provided in paragraph (c) of this provision or if a waiver has been granted in accordance with FAR 25.703-2(d), by submission of its offer, the offeror certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and

provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons.

(c) *Exception for trade agreements.* The certification requirement of paragraph (b) of this provision does not apply if—

- (1) This solicitation includes a trade agreements certification (e.g., 52.225-4, 52.225-11 or comparable agency provision); and
- (2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

K.4 FAR 52.230-1, COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (OCT 2008)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. Disclosure Statement -- Cost Accounting Practices and Certification

(a) Any contract in excess of \$650,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

☐ (1) *Certificate of Concurrent Submission of Disclosure Statement.*

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:

- (i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official

authorized to act in that capacity (Federal official), as applicable;
and

(ii) One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO or Federal Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

[] (2) *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____ Name and Address of Cognizant ACO or Federal Official Where Filed: _____

_____ The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

[] (3) *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

[] (4) *Certificate of Interim Exemption.* The offeror hereby certifies that

(i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and

(ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. Cost Accounting Standards -- Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

* The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ Yes

☐ No

K.5 FAR 52.230-7, PROPOSAL DISCLOSURE-COST ACCOUNTING PRACTICE CHANGES (APR 2005)

The Offeror shall check "yes" below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

☐ Yes

☐ No

If the Offeror checked "Yes" above, the offeror shall—

- (1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and
- (2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.

K.6 DEAR 952.209-8 ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE – ADVISORY AND ASSISTANCE SERVICES (JUN 1997)

(a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(b) An offeror notified that it is the apparent successful offeror shall provide the statement described in paragraph (c) of this provision. For purposes of this provision, "apparent successful offeror" means the proposer selected for final negotiations or, where individual contracts are negotiated with all firms in the competitive range, it means all such firms.

(c) The statement must contain the following:

(1) A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

(2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory and assistance services to be provided in connection with the instant contract or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the

contract in question has been communicated as part of the statement required by (b) of this provision.

(d) Failure of the offeror to provide the required statement may result in the offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

K.7 COST AND FEE PROPOSAL CERTIFICATION

The Government publicly furnished certain cost, pricing, and/or estimating information regarding contract activities and requirements during the solicitation phase of this contract. By submitting a signed offer under this Solicitation, the offeror certifies that:

- (a) It fully recognizes that such information was not warranted in any manner by the Government as to its accuracy or validity, and was for information only;
- (b) The Government does not represent such information as a preferred price offer under the solicitation; and
- (c) Irrespective of the Government-furnished information, the offeror's estimated cost and estimated fee, upon which this contract award is based, was independently and fully derived from the offeror's own estimating methods, that the offeror assumes full and complete ownership of its offered estimated cost and estimated fee, and that it fully acknowledges that the Government makes no warranties, express or implied, as to the completeness or accuracy of the Government-furnished pricing and estimating information.

K.8 SOLICITATION CERTIFICATION

By submitting its signed offer, the offeror represents its understanding that Solicitation number DE-SOL-0002084 represents the current and complete contracting requirements of the Government for the West Valley Demonstration Project Phase 1 Decommissioning – Facility Disposition contract. This Solicitation supersedes in its entirety any prior representations from the Government or attributed to the Government, including, but not necessarily limited to; any information formally provided by the Government prior to release of this Solicitation; remarks made by the Government during, or reported as a result of, industry one-on-one meetings; and any information or conjecture presented by the media, or any other source, on the Governments requirements for this Solicitation.

K.9 INSTRUCTIONS FOR SUBMITTING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE (FOCI) INFORMATION

The offeror shall submit FOCI information in accordance with the Section L Provision entitled, DEAR 952.204-73, Facility Clearance, using the DOE FOCI Electronic Submission System (ESS) located at <https://foci.td.anl.gov>. Offerors are encouraged to transmit FOCI information well before the deadline for proposal submission set forth in Solicitation Section A, Block 9, in accordance with Section L Provision entitled, FAR 52.215-1, Instructions to Offerors – Competitive Acquisition.

If the offeror has an approved facility clearance, the offeror should identify (1) its DOE Facility Code (or DOD CAGE Code, if applicable), (2) the date the offeror's completed Standard Form 328 was submitted, and (3) the date of the CO's affirmative FOCI determination. Under the DOE FOCI ESS electronic signatures cannot be accepted; thus, a signed SF-328 original, executed in accordance with the form's instructions, shall be submitted with the offeror's offer/proposal to DOE.

K.10 AGREEMENT TO USE NON-FEDERAL EVALUATORS

The U.S. Department of Energy (DOE) may employ non-Federal evaluators (including employees of DOE contractors) to evaluate proposals submitted in response to Solicitation No. DE-SOL-0002084. All such non-Federal evaluators are required to sign appropriate non disclosure and conflict of interest statements prior to any such engagement. By submission of a signed offer under this solicitation, the Offeror consents to such review by non-Federal evaluators.

K.11 SIGNATURE/CERTIFICATION

By signing below, the offeror certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The offeror further certifies that it will notify the Contracting Officer of any changes to these representations and certifications. The representations and certifications made by the offeror, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under 18 United States Code (USC) Section 1001.

Signature of the Officer or Employee Responsible for the Offer

Date of Offer Execution

Typed Name and Title of the Officer or Employee Responsible for the Offer

Name of Organization

Address

City, State, Zip Code

DE-SOL-0002084

Solicitation Number

K.12 LIST OF SECTION K ATTACHMENTS

<u>Attachment No.</u>	<u>Description</u>
K-1	Standard Form 328 – Certificate Pertaining to Foreign Interests